

Application No. 10/721,846

### REMARKS

Claims 1-25 are pending in the application.

Claims 14-25 are withdrawn from consideration.

Claims 1-13 were rejected.

Claims 26 and 27 have been added.

### CLAIM REJECTIONS – 35 U.S.C. § 102(b)

Claims 1, 6, 8, and 11 were rejected under 35 U.S.C. 102(b) as being anticipated by Harreld et al. (4,486,975). In response, Applicants first note that Harreld is non-analogous art. One skilled in the art of packaging material would not look at the art of novelty devices for analogous art. Secondly, Harreld lacks 2 of the three elements listed in claim 1. Specifically, the "center body" in Harreld is described in claim one of Harreld as follows: "said inverted U shape inflatable body forming a **central non-inflatable body** having an open end for hand insertion..." (emphasis added) Claim 1 of the present invention specifically requires an *inflatable* center body. Additionally, the "fingers" in Harreld are not suitable "for placement along a side of the item in the space between the side and a wall of the outer box..." as required by the second element of claim 1. The "fingers" shown in Harreld instead are modeled on a human hand and comprise either a single finger (and not a plurality as required by claim 1), a non-separable set of fingers arranged as a mitt, or a set of 2 fingers which are arranged close to each other and not suitable for placement along 2 different sides of an item as required by claim 1.

Accordingly, Harreld is non-analogous art and lacks at least 2 elements of claim 1, the independent claim remaining in the Application. Harreld cannot support a rejection under 35 U.S.C. 102(b).

Claims 1, 2, 4, 6, 8, 9, and 11 were rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson (4,179,832). In response, Applicants again note that Lemelson is nonanalogous art. One skilled in the art of packaging material would not look at the art of

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inflatable displays for analogous art. Secondly, Lemelson teaches that an electrical cable must be supported "to permit the cable to extend longitudinally along most of the length of said inflatable enclosure;" (Claim 1, 5<sup>th</sup> element) The 6<sup>th</sup> element of Lemelson requires electric lamps and the 7<sup>th</sup> claim element of Lemelson requires a "means for supplying electrical energy to the conducting elements..." Such electrification and heated electric lamps for display teach directly away from the present invention which calls for packaging material to be placed into a box and, therefore, out-of-sight. Electrical cables and lamps both add unnecessary expense and, when electrified, would be a fire hazard inside a closed box and an electrical hazard to the items being packaged and to the people who perform the packaging and the unpackaging.

Accordingly, Lemelson teaches away from the present invention, is non-analogous art, and requires electrical elements that would be unsafe if used for packaging an item inside a box. Rejection under 35 U.S.C. 102(b) cannot be supported.

Claims 1-4, 6, 7, 11, and 13 were rejected under 35 U.S.C. 102(b) as being anticipated by Aninger (3,398,501). In response, claim 1 has been amended to make clear that the fingers of the inflatable packaging system of the present invention are comprised of essentially inelastic material. This amendment is supported in the Specification by Figure 1, by the comparison to the Polyair Airspace Pillow Packaging System at lines 2-3 of paragraph [0003], and by the listing of plastics suitable for use with the present invention at line 3 of paragraph [0013]. The listed resins are polyethylene, polypropylene, and PVC—none of which are elastic although each is flexible and usable in inflatable membranes. In contrast, Aninger teaches use of elastic membrane materials. Such elasticity is shown clearly in Figure 4 and in claim 1 of Aninger, which requires "inflating said so inserted and so secured cushion....so as to effect its occupying the space between said fragile article and said container." (Column 4, lines 3-6 of Aninger) See also, column 2, lines 49-54.

Additionally, Aninger requires that its "fingers" become interlocking and locked together during inflation. The result of using elastic membrane material and interlocking fingers as in Aninger is that the packaging material in Aninger and the

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packaging membranes of the present invention operate in different manners. Specifically, Aninger operates by enveloping the item being packaged and expanding when inflated to conform to the contours of the item being packaged. Additionally, interlocking appendages further envelop the packaged item from top to bottom and around the sides. As stated in the preamble to Aninger, the Aninger system is "for the packing of complex, irregularly-shaped fragile and delicate articles of merchandise..." Without the interlocking appendages, it seems probable that the ballooning bladders of Aninger would balloon in an uncontrolled manner that would tend to either push the item being packaged out of the outer box or would push the appendages themselves outside of the outer box. Hence, the interlocking feature in Aninger is a necessary feature due to the elastic nature of the membrane material. (Note: from Figure 4 of Aninger, from references in Aninger to "occupy the space between the delicate article and the shipping container", and from the manner in which the interlocking appendages expand to lock the appendages together, it is clear that the membrane material in Aninger must be highly elastic in order to fill the described space without breaking the delicate article. See, e.g., Column 2, lines, 51-54)

In contrast, the packaging system of the present system does not envelop the top and bottom of the item being packaged and does not elastically expand to fill the contours between the item being packaged and the sides of an outer box. As seen in Figure 1, the fingers of the present invention are designed to drape over the item prior to inflation. No interlocking of the fingers is necessary, thereby making the packing process easier and less time-consuming. Alternative packaging material can protect an items bottom surface since the packaging need not envelop both top and bottom sides of the item. Embodiments of the present invention may not be as suitable as the Aninger system for irregularly shaped, delicate items but are clearly preferred for large, bulky items such as printers and similar office equipment. Whereas the highly elastic membranes of Aninger would be suspect when packaged with large, heavy items since the Aninger membranes would compress and shift when the item shifts, the essentially inelastic membranes of the present invention are designed to remain in place and to stabilize a

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heavy item by maintaining the general spacing between the object and insides of the outer box container.

Aninger thus teaches away from the present invention by requiring elastic membrane material and by requiring interlocking appendages that envelope the top and bottom of the packaged item. Embodiments of the present invention are best suitable for different packaged items than the items best suited for packaging with the Aninger system. Accordingly, Aninger cannot support a rejection under 35 U.S.C. 102(b).

**CLAIM REJECTIONS – 35 U.S.C. § 103(a)**

Claims 2, 3, 7, 9, 10, and 12 were rejected under 35 U.S.C. 103(a) as being anticipated by Harreld et al. (4,486,975). In response, Applicants refer to the arguments pertaining to Harreld set forth above. In sum, Harreld is non-analogous art and lacks at least 2 elements of claim 1. Harreld teaches embodiments that are not suitable for use as packaging material. Accordingly, Harreld cannot support a rejection under 35 U.S.C. 103(a).

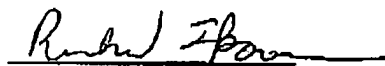
Claims 3, 5, 7, 10, 12, and 13 were rejected under 35 U.S.C. 103(a) as being anticipated by Lemelson et al. (4,486,975). In response, Applicants again refer to arguments pertaining to Lemelson set forth above. In sum, Lemelson teaches away from the present invention, is non-analogous art, and requires electrical elements that would be unsafe if used for packaging an item inside a box. Rejection under 35 U.S.C. 103(a) cannot be supported.

Claims 5, 8-10 and 12 were rejected under 35 U.S.C. 102(b) as being anticipated by Aninger (3,398,501). In response, Applicants refer to arguments pertaining to Aninger set forth above. In sum, Aninger teaches away from the present invention by requiring elastic membrane material and by requiring interlocking appendages that envelope the top and bottom of the packaged item. Embodiments of the present invention are best suitable for different packaged items than the items best suited for packaging with the Aninger system. Accordingly, Aninger cannot support a rejection under 35 U.S.C. 103(a).

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In the event the Examiner considers personal contact advantageous to the disposition of this case, the Examiner is hereby authorized to call Applicant's Attorney, Richard Spooner, at Telephone Number (585) 423-5324, Rochester, New York.

Respectfully submitted,



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